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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,365	03/22/2004	Marguerite Sallas	SMS001/135211	2593
23444	7590	06/02/2005	EXAMINER	
ANDREWS & KURTH, L.L.P. 600 TRAVIS, SUITE 4200 HOUSTON, TX 77002			PATEL, TAJASH D	
			ART UNIT	PAPER NUMBER
			3765	
DATE MAILED: 06/02/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,365

Applicant(s)

SALLAS ET AL.

Examiner

Tejash D. Patel

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 4, 6 and 8-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Thompson (US 4,561,124). Thompson discloses a garment (11) having an outer fabric covering the legs having inner pocket panel being coupled to an inner surface of a inner lining of the garment by permanent stitching (23, 24) as shown in figure 4. Further, a removable knee pad (31) is positioned between the pocket panel and the inner lining as shown in figure 4. In addition, a retaining panel (35) is disposed between the pocket panels and the inner lining as shown in figures 8 and 9. Furthermore, each of the pocket panel is defined by four edges that forms a first edge over the covering and is unfastened thereto while the second, third and fourth edges are connected to the covering so that the removable pad van be disposed between the pocket and the first folded edge as shown in figure 6.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 and 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson.

With regard to claim 3, it would have been obvious to one skilled in the art to position the pocket panel on an outer surface of the inner lining as an alternative but equivalent means of securing a kneepad about the garment as known in the art.

With regard to claim 5, it would have been obvious that the kneepad can be permanently secured to the pocket panel and inner lining in order to maintain the kneepad in a fixed position relative to the garment.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson as applied to claim 1 above, and further in view of Walton (US 6,317,893). Warner discloses the invention as set forth above except for showing the inner liner being removable.

Walton discloses a garment having pockets with kneepads having a removable inner lining, col. 6, lines 13-47 and as shown in figure 4.

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It would have been obvious to one skilled in the art at the time the invention was made to substitute the inner lining of Thompson with a removable lining as taught by Walton. Doing so, would allow soiled or damage lining to be easily replaced or depending on the end use thereof.

Response to Amendment

6. The arguments filed on March 4, 2005 has been considered. In view of such, the 35 USC 102 (e) rejection of Warner '804 has been withdrawn. However, a newly discovered prior art reference has prompted this office action to be made new-non Final and the arguments are moot.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993. The fax phone number for this group is (703) 872-9306.



**TEJASH PATEL
PRIMARY EXAMINER**

May 27, 2005